

CHAPTER 7

Certification and Appointment

7.1 Appointments to the Competitive Service

- 1 Merit appointment indicates that the employee has been selected for appointment in accordance with the provisions of Chapters 5 and 6 of the Regulations. Merit employees shall receive annual and sick leave and other fringe benefits.
- 2 Merit positions may be filled from within or outside the merit system. Appointments from within the system may be promotions, lateral transfers or demotions.
- 3 Appointees to part-time positions scheduled for 20 or more hours (but less than 40 hours) per week in the competitive service shall have all the benefits of full-time employees in the competitive service.
- 4 Employees holding two part time benefits eligible positions shall receive benefits from both of the positions not to exceed benefit eligibility for one full time benefit eligible position. Eligibility for performance pay bonuses shall be limited to the employee's primary position.

7.2 Status of Employees and Positions

- 1 Merit employees normally occupy positions in the competitive service and exempt employees normally occupy positions in the exempt service. In exceptional circumstances, however, particularly when it is urgent that a position be filled without delay, a merit employee may occupy a position in the exempt service or an exempt employee may occupy a position in the competitive service.
- 2 Except as provided in 7.2-3 below, a merit employee shall not have his/her status changed to exempt while assigned to a position in the exempt service when there has been no break in service. There shall be no change in the merit employee's rights and benefits entitlement while serving in an exempt service position. When a merit employee is appointed to an exempt service position, the personnel action request form shall indicate in what manner it is planned to return the employee to a merit position. The rules governing temporary acting promotion or demotion shall apply. Upon return to the merit position, the employee's grade, salary and performance pay increase date shall be determined as if the exempt appointment had not occurred.
- 3 A merit employee may occupy an exempt position without a change in status for no longer than ninety days. A merit employee who accepts an appointment in excess of ninety days to an exempt position loses his/her merit status, but may be reinstated in the

competitive service at his/her former merit grade and salary within one calendar year of the end of the exempt appointment.

7.3 Method of Requisitioning Eligibles

Whenever a vacancy in any position in the competitive service is to be filled, the department head or designee shall submit a requisition for an employee on a form prescribed by the Human Resources Director. This requisition shall state the position number, the class title of the position, the number of positions to be filled, the location and hours of work, any special qualifications desired of the person appointed, any recommendation as to whether the position should be filled by promotion, transfer, demotion or appointment from the open competitive eligible list and other pertinent information required by the Human Resources Director, including a current position description unless the vacancy is a recurring one and a current position description was provided with a recent requisition.

7.4 Certification of Eligibles

- 1 Upon receipt of a personnel requisition, the Human Resources Director shall certify applicants from the appropriate eligible list or lists, selected in the manner described herein. If there is not an eligibility list appropriate to the class requisitioned, or if such a list exists but, in the opinion of the Director or the Director's designee, it does not contain sufficient names to provide an adequate, balanced pool, the Director or the Director's designee shall promptly announce the vacancy and create an eligible list, following the procedures specified in Chapters 5 and 6.
- 2 If the number of positions to be filled in a single agency is less than ten, sufficient eligibles shall be certified so that there are at least nine more candidates than there are positions. If the number of positions to be filled is ten or more, the number certified shall be at least twice and usually no more than three times the number of positions. The above notwithstanding, a lesser number may be certified if, after the required announcement and examination, the number of eligibles is less than that required by this provision.
- 3 Eligibles shall be certified in order of their standing on the eligibility lists on which their names appear, in accordance with the following rules.
 - a. If there is an applicable reemployment list, all eligibles on that list shall be certified before any person on either a promotional or an open competitive list.
 - b. If a position has been announced exclusively as a promotional opportunity open only to current employees, only individuals on the applicable promotional eligibility list shall be certified after any applicable reemployment list has been exhausted.
 - c. If a position has been announced for open competition, individuals from both promotional and open competitive lists will be certified in order of their scores after any applicable reemployment list has been exhausted.

- d. In case of tie scores, the number of eligibles certified shall be increased so that all who are tied can be certified.
 - e. When the position to be filled requires specific knowledge or specialized skills, which all applicants on the eligible list do not possess, applicants who have such knowledge or skills may be certified before those who do not.
 - f. To the extent that the applicable eligible list contains the names of individuals in protected classes, the Human Resources Director shall certify the best qualified members of such classes in sufficient numbers to provide the department head or deputy an opportunity to improve the work force balance in accordance with the currently effective agency Affirmative Action Plan. The total number of eligibles certified for any position may be increased beyond the numbers required by the preceding subsections in order to accomplish this objective.
 - g. Regardless of the basis for individual certification, eligibles shall be listed in alphabetical order on certification lists furnished to departments.
- 4 The Human Resources Director may delegate some or all of the actions described in this section to department heads.

7.5 Appointment

- 1 Appointment to a vacancy in the competitive service shall be made by the proper department head or deputy from those eligibles certified by the Human Resources Director. Such appointment shall be indicated by the preparation of a personnel action form.
- 2 Before making any appointment, the department head or his/her designee shall review the applications of all certified eligibles and shall interview at least one more than half of those certified. For the purpose of this subsection, the department head's designee may be either an individual or a panel. Department heads are encouraged to use panels for mid-level positions and above. When panels are used, either to review applications or to conduct interviews, they should be constituted with due regard for the demographic characteristics of the certified eligibles.

Due to the scope and rigorous nature of the selection procedures used for public safety job classes, interviews are not required for these job classes except when deemed appropriate at the discretion of the department head or deputy.

- 3 The department head or his/her designee should review and consider the performance records of current and former employees who have been certified for a job vacancy.
- 4 Department heads or deputies normally shall complete the process of screening, interviewing and appointing within 45 calendar days of receipt of a certification list.

When there is a large number of positions to be filled from the same list of eligibles, or in other extenuating circumstances, the Human Resources Director or his/her designee may extend this time limit at the request of the department head or deputy. In weighing such requests, the Human Resources Director shall consider the likelihood that the best qualified applicants may no longer be available if there is inordinate delay between the dates of the announcement and the actual filling of a position. This subsection does not apply to applicants for uniformed public safety positions, who are required to undergo additional screening after initial certification and whose appointments may be timed to coincide with the convening dates of training academy classes.

- 5 No applicant shall seek or attempt to use any political endorsement in connection with any merit system appointment and no consideration shall be given to political or partisan affiliation, activity or endorsement in selecting candidates for original or promotional appointment in the merit service.
- 6 Every appointee shall be required to show proof of identity and proof of eligibility to work in the United States, before his/her appointment becomes effective.

7.6 Probationary Period

- 1 Except as noted in 7.6-2 below every merit appointee shall serve a probationary period of twelve months after original appointment (initial probationary period) or promotion (promotional probationary period). The probationary period shall be used for closely observing the employee's work, for obtaining the most effective adjustment of a new employee to his/her position, and for separating any new employee or demoting any promoted employee whose performance does not meet the performance requirements.
- 2 When an employee receives an unsatisfactory annual performance rating (as defined in 12.5) at the conclusion of the initial probationary period, the department head or deputy may extend the initial probationary period by 120 days to provide for the execution of a work improvement plan as outlined in Chapter 12.
- 3 Sworn police officers, animal control officers, deputy sheriffs and uniformed firefighters shall serve an initial probationary period of twelve months commencing with the date of graduation from the appropriate training academy. For all other merit employees, the initial probationary period shall commence with the date of appointment. The performance pay increase date shall be determined by the date of original appointment.
- 4 In addition to the circumstances cited in 7.6-2, with the approval of the Human Resources Director, a department head or deputy may extend the initial or promotional probationary period for a period not to exceed 120 calendar days.
 - a. Extension of the probationary period shall be approved only when it is in the best interests of the County to do so. Requests for extension of the probationary period must be made in writing to the Human Resources Director stating the specific facts and circumstances justifying the request. The request for extension must be made in

advance of the expiration of the employee's probationary period and may be granted under the following circumstances:

- (1) when an employee is absent from work on an approved absence in excess of 30 calendar days during the probationary period;
 - (2) when an employee is unable to perform the assigned duties of the job for which he/she was hired for a period in excess of 30 days, such as when serving in a temporary light duty assignment to accommodate a medical condition.
- b. Such extension shall commence on the date the employee resumes the assigned duties of the job for which he/she was hired.
- 5 An employee serving in the initial probationary period is eligible to apply for, be certified to, and be appointed to a class of a higher level. Under such circumstances, a promotional probationary period begins with the date of the promotion but the initial probationary period expires twelve months from initial appointment date unless extended in accordance with the provisions of this action.
- 6 Unless alleging illegal discrimination, an employee serving an initial appointment probationary period including extensions authorized in accordance with this section has no right to grieve or appeal under these rules. Any employee who has satisfactorily completed an initial probationary period and who is serving a probationary period following promotion retains his/her grievance rights.

7.7 Underfill Appointments

- 1 With the approval of the Human Resources Director, an applicant who does not meet all the employment qualifications for a merit class may be appointed competitively to fill a position in that class at a lower grade than that of the class under the conditions specified in this section.
- 2 Underfills are appropriate under the following circumstances:
 - a. When recruitment difficulties exist for a class at the authorized grade.
 - b. When appointees require specialized training and work experience within a particular function to meet the performance standards for the position at the authorized grade.
 - c. When underfilling a position is part of an upward mobility program for career employees.
- 3 When it is planned or likely that a position will be underfilled, the vacancy announcement will so state.
- 4 Before making a formal offer of an underfill appointment, the department head or deputy

shall prepare a written underfill agreement, which must be approved by the Human Resources Director or designee in advance of the offer. The agreement shall include at least the following information:

- a. The specific training and experience requirements the employee must meet before promotion to the authorized grade.
 - b. The manner in which they are to be met and the time frame within which the appointee is expected to meet the performance standards for the position, which standards shall be included as an appendix to the agreement.
 - c. A statement to the effect that promotion will be made without further competition when the appointee meets the terms of the agreement and the performance standards of the position; and that if the appointee fails to do so within the allotted time the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation or a statement to the effect that after successfully completing the terms of the agreement, the employee will be required to compete for promotion to the higher level position and if not selected, the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation.
- 5 Underfill agreements normally will be for a period of not more than one year but may be for periods of up to two years in unusual circumstances. The department head or deputy may extend an underfill agreement if the employee necessarily is absent for more than 30 consecutive calendar days because of illness, pregnancy, military leave or any unforeseen emergency or because of the unavailability of required training. The department head or deputy must inform the Human Resources Director of all such extensions.

7.8 Appointment of Family Members

- 1 Except as provided herein, no applicant shall be hired, reinstated, reemployed, transferred, promoted or demoted to a position which places him/her in a direct supervisory line with a family member.

- 2 This prohibition may also be extended to positions, in which the duties involve access, review, verification, authorization, or approval of the transactions of family members in financial, personnel, purchasing, or other sensitive matters, even though the respective functions are in different departments. Such positions will be identified by an affected department head or designee, with the approval of the Human Resources Director.
- 3 For the purposes of this regulation, "family member" is defined by the following relationships, including those legalized by adoption:

Aunt	Grandparent	sister-in-law
Brother	half brother	son-in-law
brother-in-law	half sister	spouse
Child	mother-in-law	stepbrother
daughter-in-law	Nephew	stepchild
father-in-law	Niece	stepparent
first cousin	Parent	stepsister
Grandchild	Sister	uncle

- 4 If a change occurs which causes employees to be in conflict with this regulation, one of the employees shall be transferred to a vacant position within the County. In the absence of an agreement which is satisfactory to all the concerned parties, the employee with the lower grade, or, if they are of the same grade, the employee with the fewer years of County service shall be transferred.
- 5 Requests for exceptions to this policy shall be submitted in writing to the County Executive, who has the authority to waive this regulation when it is in the best interest of the County to do so.

7.9 Applicant Right of Appeal on Discriminatory Practices

- 1 An applicant who is not employed by the County at the time of his/her application and who believes he/she has been discriminated against on the basis of race, sex, color, religion, national origin, age, handicap, or political affiliation during the selection process may file an appeal on the alleged discriminatory practice. A bona fide occupational requirement for any position, the minimum age qualifications for public safety occupations, and the exclusion of family members as defined in Section 7.8 shall not be appealable except as provided in Sec. 7.8-5.
- 2 Such an appeal stating the alleged discriminatory practice and the corrective action desired must be filed in writing with the Director of Equity Programs within fifteen business days of the date the applicant knew or should have known that he/she was not selected for employment.
- 3 The Director of Equity Programs shall investigate the allegations and respond in writing to the applicant within twenty business days.

- 4 Should the applicant believe the Director of Equity Programs' response to be unsatisfactory, the applicant may file a written request for a hearing with the Civil Service Commission. The applicant's request for a hearing must contain a complete statement of the alleged discriminatory practice and the corrective action desired, and must be filed within fifteen business days of receipt of the Director of Equity Programs' response.
- 5 The Civil Service Commission shall set a time and place for such hearing to be held not more than thirty workdays after receipt of such request. At its discretion, the Commission may appoint a hearing officer to hear the appeal.
- 6 The hearing shall be conducted in accordance with hearing procedures adopted by the Civil Service Commission.
- 7 After the hearing, the Commission shall forward an advisory finding on the merit of the appeal and disposition of the case to the County Executive. The Commission does not have the authority to award or recommend monetary damages.